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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,910	08/10/2005	Markku Broas	122189	5394

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EXAMINER	
CHAO, ELMER M	

ART UNIT	PAPER NUMBER
3737	

MAIL DATE	DELIVERY MODE
10/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,910

Applicant(s)

BROAS, MARKKU

Examiner

Elmer Chao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Acknowledgement is made of the amendment filed 5/29/2007.

Response to Arguments

2. Applicant arguments filed 5/29/2007 have been fully considered but they are not persuasive.
3. Regarding Applicant arguments with respect to claims the 102(b) rejection, Examiner asserts that Tsai as evidenced by Cornsweet et al. would still read on the claimed limitations. Specifically, Cornsweet et al. provides evidence of ophthalmoscopes being used for examinations of the ocular fundus by shining light through the patient's pupil to illuminate the fundus. In the field of optical imaging, illuminating an area would involve light scattering. When receiving the light, some of the scattered light would not be returning from the exact point at which the optical radiation was originally directed. Examiner also asserts that Tsai does teach an entrance aperture and exit aperture having different optical axes (see Fig. 2, Items 36 and 37).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. **Claims 21-23, 25-30, and 32-34** are rejected under 35 U.S.C. 102(b) as being anticipated by Tsai (U.S. 2002/0038075) and as evidenced by Cornsweet et al. (U.S. 6,296,358 B1). Tsai teaches a method and apparatus for: forming an image of an organ including skin (Para [0025], last sentence; Fig 6c; Para [0034]) or ear (Fig 6b; Para [0034]) by illuminating an organ by radiation emitted from a hand-held camera unit (Fig. 2, Item 10) comprising a nose part (Fig. 2, Item 14), wherein the camera unit can be connected to a power source through a cable (Fig 5); emitting optical radiation toward the organ via at least one exit aperture (Fig. 2, Item 32) and one entrance aperture (Fig 2, Item 48) whose optical axes differ from each other (the fiber optic light outlet and lens housing inherently posses apertures at the edges where the light exits the end of the fiber optic cable and enters the housing), wherein the entrance and exit apertures are parallel and unidirectional whose optical axis differ from each other (Fig 2, Items 36 and 37; Para [0025]); transferring images captured by the camera unit to a data processing device (Fig. 3, Items 34 & 62); and displaying the images visually (Fig. 2, Items 64 & 20).

Tsai also teaches using the camera unit as an ophthalmoscope (Para [0011] – Para [0013]; claim 1). Ophthalmoscopes are used for examinations of the ocular fundus by shining light through the patient's pupil to illuminate the fundus, as evidenced and explicitly stated in Cornsweet et al. (col. 1, lines 18-33).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 24 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai and as evidenced by Cornsweet, in view of Oharek (U.S. 4,208,107). Tsai teaches the limitations as discussed above. Tsai also teaches that the light used can be infrared light or white light (Para [0023]). Tsai does not teach illuminating the eye with white light and infrared light. However, Oharek teaches using both white light and infrared light to illuminate the eye (abstract; col. 7, lines 64-68; col. 8, lines 1-32). Therefore, it would have been obvious to a person of ordinary skill in the art to modify Tsai to use both infrared and white light to illuminate the eye in order to obtain both infrared pictures and black and white or color pictures without closing the pupil in response to the white light (abstract; col. 7, lines 64-68; col. 8, lines 1-32).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

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filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elmer Chao whose telephone number is (571)272-0674. The examiner can normally be reached on 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (571)272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EC
10/1/2007


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